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Via Email/U.S. Mail

March 12, 2012

Deborah Williams
EPA FOIA Public Liaison
Mail Code 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Email: williams.deborah@epa.gov

Re: Amended Freedom of Information Act Request Concerning Greka Oil & Gas, Inc.

Dear Ms. Williams:

On behalf of HVI Cat Canyon, Inc., f/k/a Greka Oil & Gas, Inc. ("Greka"), this letter responds to the December 22, 2011 letter of Michael Massey, Assistant Regional Counsel for the United States Environmental Protection Agency ("EPA"). Mr. Massey's letter responded to Greka's November 29, 2011 amended request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA"), hereinafter, "Amended Request". The Amended Request and Mr. Massey's response are enclosed herewith.

Mr. Massey's December 22, 2011 letter indicated that you are the FOIA Public Liaison for EPA. Greka understands that your role as Public Liaison includes "resolving disputes requesters have with the Agency" as well as "facilitate[ing] timely FOIA responses, provid[ing] information on the status of requests and foster[ing] greater openness and transparency in the Agency's FOIA administration activities." See http://www.epa.gov/foia/docs/EPA_FOIA_Program.pdf

Greka's original FOIA request and the Amended Request were both responded to by Mr. Massey, who has recently appeared on record as counsel for the United States in a case pending against Greka, the matter of *United States of America et al v. HVI Cat Canyon Inc.*, Central District of California Case No. 2:11-cv-05097-DDP-RZ. As set forth in Greka's Amended Request, Greka believes that Mr. Massey's role in the litigation creates a conflict of interest in his administration of the Amended Request. Greka therefore directs this correspondence to you, in the hope that your office will facilitate a timely response.

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Greka hereby commits to pay EPA's anticipated total fee of \$14,700 in responding to the Amended Request. Mr. Massey's letter indicated that Greka's commitment to pay would be required before EPA would grant or deny the Amended Request. Pursuant to 40 C.F.R. § 2.107(e), the period of time between EPA's disclosure of the fee amount and Greka's commitment to pay does not count toward the twenty (20) day response time required by 5 U.S.C. § 552(6)(O)(i).¹ However, as the Amended Request was received by EPA on November 29, 2011, and Mr. Massey's response letter was not transmitted until December 22, 2011, the twenty day time period has already elapsed, and Greka therefore anticipates that EPA's decision to grant or deny the Amended Request will be immediately forthcoming.

Mr. Massey's letter further indicates that, should EPA grant the Amended Request, EPA will need an extension of time to respond to the request. Specifically, "EPA expects that it will take six months or more to fully process the amended request." EPA's FOIA regulations, however, require EPA to provide Greka with "the date by which processing of the request should be completed" if the request cannot be processed in 10 working days or less. 40 C.F.R. § 2.104(d). "[S]ix months or more" is not a date by which processing of the request should be completed; Greka therefore requests that a date certain be provided.

Greka further requests, if the Amended Request is granted, that the responsive documents be produced to Greka on a "rolling basis," rather than withheld until the search for all documents responsive to the Amended Request is completed. Of the five subject matters contained in the Amended Requests, Greka asks that EPA prioritize its search for, and disclose as they are identified, documents responsive to the first two subject matters, specifically:

1. EPA's preparation for and participation in a meeting with United States Congresswoman Lois Capps, representing California's 23 District, on or about April 2, 2008, regarding Greka oil spills, as described in the EPA email chain attached hereto as Exhibit A; and
2. For the time period from January 1, 2005 to the present, all meetings and communications EPA has had regarding Greka with members of Congress and/or employees of members of Congress.

¹ 40 C.F.R. § 2.107(e) provides as follows: "When the Agency determines or estimates that the fees to be charged under this section will amount to more than \$25.00, the Agency will notify the requester of the actual or estimated amount of the fees, unless the requester has indicated a willingness to pay fees as high as those anticipated.... When a requester has been notified that actual or estimated fees will amount to more than \$25.00, EPA will do no further work on the request until the requester agrees to pay the anticipated total fee. This time will be excluded from the twenty (20) working day time limit...".

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Finally, Greka asks that EPA notify Greka before undertaking any activities that will result in a total cost in excess of the estimated \$14,700.

Thank you for your assistance with this matter.

Very truly yours,

/s/ James L. Meeder

James L. Meeder

JLM:elm
Enclosures

cc: Michael Massey, Assistant Regional Counsel
U.S. EPA Region 9, FOIA Officer